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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/330,963	06/11/1999	RICHARD EARL MCNUTT	ODS/6	1075

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EXAMINER
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HARPER, TRAMAR YONG

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/330,963

Applicant(s)

MCNUTT ET AL.

Examiner

Tramar Harper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11, 12, 15-25, 27, 28 and 31-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 12, 15-25, 27, 28, and 31-94 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to the Applicants Arguments/Remarks filed April 28, 2005. It has been noted that claims 1-9, 11, 12, 15-25, 27, 28, and 31-94 are pending and claims 10, 13-14, 26, and 29-30 have been canceled.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11-12, 15, 17-25, 27-28, 31, 33-44, 46-57, and 60-94 are rejected under 35 U.S.C. 102(b) as being anticipated by Dahl (PCT WO 97/28636).

Regarding claims 1-2, 17-18, 33-34, and 46-47 Dahl discloses an interactive wagering system (title/abstract) comprising of a database that stores data relating to the plurality of wagering accounts page 6, lines 1-4; and the plurality of types of user interface systems, that are configured to receive data relating to a single wagering account stored in the database, receive wager information from a user and provide data relating to a single wagering account to the user, wherein one of the plurality of the user interface systems is a television wagering control system that provides the data relating to the single wagering account to a television distribution system (6) and that receives the wager information from a television wagering terminal, and wherein at least another of the plurality of types of user interface systems is an interactive voice

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response control system (33) that receives a telephone call from an external source, that provides, to the external source through the telephone call, voice prompts that correspond to the data relating to the single wagering account, and that receives wager information from the external source through the telephone call, see abstract, page 2, lines 6-10, page 3, lines 2-4, 29-30, page 4, lines 1-8.

Regarding claims 3, 19, 35, and 48 Dahl discloses the television distribution system being a cable system, page 11, lines 21-23.

Regarding claims 4, 20, 36, and 49 Dahl discloses the television distribution system being a satellite television system, page 10, lines 25-32, page 11, lines 24-26.

Regarding claims 5, 21, 37, and 50 Dahl discloses the television wagering terminal being a cable television set-top box, page 10, lines 5-15.

Regarding claims 6, 22, 38, and 51 Dahl discloses the television wagering terminal being a satellite television receiver, page 4, lines 1-4.

Regarding claims 7, 23, 39, and 52, Dahl discloses the television wagering control system receiving the wager information from the television wagering terminal via a telephone system connection, page 4, lines 31-34, page 5, lines 3+, page 7, lines 26-28.

Regarding claims 8, 24, 40, and 53 Dahl discloses the television wagering control system receiving the wager information from the television wagering terminal via a cable system connection, page 3, lines 9-13.

Regarding claims 9, 25, 41, and 54 Dahl discloses the television wagering terminal control system receiving the wager information from the television wagering

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terminal via a computer network connection, page 7, lines 1-4, 37-40, page 11, lines 10-16, 26-28.

Regarding claims 11, 27, 42, and 55 Dahl discloses the interactive voice response control system receiving wager information as signals generated in response to one or more telephone key depressions, page 5, lines 32-36, page 6, lines 40-41, page 7, line 1.

Regarding claims 12, 28, 43, and 56 Dahl discloses the interactive voice response control system receiving wager information as commands that are spoken by a caller, page 7, lines 28-33, page 8, lines 25+.

Regarding claims 15, 31, 44, and 57 Dahl discloses the-computer wagering control system providing the data relating to the single wagering account to the external computer and receiving the wager information from the external computer, through a telephone connection to the external computer, page 7, lines 1-4, page 10, lines 27+.

Regarding claims 59-94, it's already shown above the different communications among the systems; therefore refer to claims 1-9, 11-12, and 15-16 above for the rejection. In addition, Dahl discloses using the user interface being the computer wagering control system capable of transmitting/receiving data through the internet connection, page 11, lines 13-16.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 16, 32, 45, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl.

Regarding claims 16, 32, 45, and 58 Dahl discloses the claimed invention as substantially as shown above. Dahl further discloses the computer wagering control system providing the data relating to the single wagering account to the external computer and receiving the wager information from the external computer, through a telephone connection to the external computer, page 7, lines 1-4, page 10, lines 27+. It's known that a telephone can be in the form of wired or wireless telephone. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to allow interaction communication through a wireless communication in order to allow all types of user interfaces to access the system.

### ***Response to Arguments***

Applicant's arguments filed April 28, 2005 with respect to independent claims 1, 17, 33, and 46 have been fully considered but they are not persuasive.

In response to applicant's argument that the reference fail to show certain features of applicant's invention, it is noted that the feature upon which applicant relies (i.e., televisions set-top box as a television wagering terminal) is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

On page 3, Applicant argues that Dahl "fails to show or suggest receiving wagering information from a television wagering terminal". The television wagering terminal, as taught by Dahl, outputs wagering information, such as a bank account number or wagering information, to the gambling station (Page 5: 7-16). Dahl's television wagering terminal is not limited to only a teletext television, but also a telephone. The telephone acts as means for the user to output information to the gambling station. The embodiment establishes a two-way communication television wagering terminal (Page 10: 27-31). Examiner acknowledges that the Applicant defines the television wagering terminal as a television set-top box as disclosed in the Specification. However, the claim limitations do not point out the actual components of the television wagering terminal. Examiner notes that the specification states, "to communicate with the wagering data hub, television set-top boxes preferably use a two-way cable system or a one-way cable or satellite system with TELEPHONE BACKHAUL." The combination of the teletext television and the telephone, as taught by Dahl, is the same as the Applicant's television set-top box and establishes the two-way

communication required. Examiner contends that Dahl meets the limitations claimed and the prior rejection is maintained.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tramar Harper whose telephone number is (571) 272-6177. The examiner can normally be reached on 7:30am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

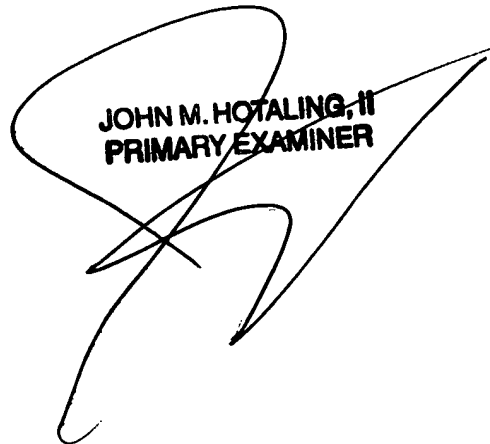


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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05/04/2006

  
**JOHN M. HOTALING, II**  
**PRIMARY EXAMINER**